

REFLECTIONS

ON THE RELATIVE SITUATIONS OF

MASTER AND SERVANT.

PRICE ONE SHILLING AND SIX PENCE.

J. Clarke
Esq.

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REFLECTIONS



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REFLECTIONS
ON THE *R*
RELATIVE SITUATIONS
OF
MASTER AND SERVANT,
HISTORICALLY AND POLITICALLY CONSIDERED;
THE IRREGULARITIES OF SERVANTS;
THE EMPLOYMENT OF FOREIGNERS;
AND
THE GENERAL INCONVENIENCES RESULTING FROM
THE WANT OF PROPER REGULATIONS.

Sed mala dum crescunt, crescat cautela malorum,
Munimenque novum contra nova tela paretur.

L O N D O N :

SOLD BY W. MILLER, OLD BOND-STREET.

1800.

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ASPIN, Printer,
Lombard-Street, Fleet-Street.

REFLECTIONS ON THE RELATIVE SITUATIONS OF MASTER AND SERVANT

HISTORICALLY AND POLITICALLY CONSIDERED;

THE FREE SERVANTS;
THE EMPLOYERS; THE EMPLOYED; THE EMPLOYERS;



THE GENERAL INCONVENIENCES RESULTING FROM

THE WANT OF PROPER REGULATIONS.

2nd Edition, revised, with several additions.
The original edition was published in 1800.

LONDON:

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ADDED: 1800.
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REFLECTIONS, &c.

I HAVE long noticed and lamented the negligent police of this country, with regard to Domestic Servants, and the general want of exertion in attempting to correct it. The subject, however, has lately been brought fairly before the public, by some observations of Lord Chief Justice Kenyon, who, on every occasion, displays an honourable zeal for the promotion of virtue and good order in society; and I understand it has engaged the consideration of some of the magistrates of the metropolis. I perceive also, by the public prints, that a Bill of Regulation is actually brought into Parliament, which is ordered for second reading on the 22d of April next.

It is therefore right, that a matter of such general concern should, in the intervening time, be generally and deliberately examined.

I declare, that I have no communication whatsoever with the framers of the Bill, nor knowledge of their ultimate views ; and if they should not deem it prudent to carry their scheme of reform to the extent, which I, or any other theorist, might project ; I shall, nevertheless, as one of the community, accept with gratitude any degree of good they may effectuate, be it ever so limited. My present intention is, to examine the reality of the grievances alledged, to deduce the cause of them, and to urge the expediency of an effective remedy ; to fix the relative boundaries of authority, and obedience ; and, in establishing the determinate power of the master, by no means to forget the redress that is due to any servant, against one that may be unjust or tyrannical.

In these times of heedlessness and indifference, it is the common cry of every one, that " Servants are very bad ;" just as they would say, " The weather is very cold : " every one admits and shares the evil, but no one endeavours to remove it. Some want the resolution, and some the power : and there may even be persons, whose levelling principles

principles induce them to tolerate the inconvenience, foolishly imagining, that any irregularity, or any encroachment of the lower upon the higher orders, is favourable to liberty.

Many private individuals, some years ago, formed a society for the encouragement of good servants, I believe, to the number of five or six hundred, who subscribed a guinea a year, to supply a fund for the reward of merit and long service; and there have been parochial associations of a similar nature. These institutions afford, of themselves, a strong presumptive proof of the general existence of the evil. But, plausible as they may appear, they will not be effectual. Servants are like school-boys: rewards and honorary distinctions will animate the industrious and good, but they will neither rouse the indolent, nor reform the vicious. Where such dispositions prevail, it is perfectly vain to expect correction, but from coercion and fear. And, in point of fact, I believe, that few servants of established connection and good character ever resorted to these institutions.

But, whilst the general feelings of the community seem to be wounded by the misbehaviour of our servants, not long since, the tables were turned, and they became the complainants, as a virtuous and injured body. For the British and Irish servants made a great clamour, and offered a petition to the Legislature against allowing the employment of foreigners. How long this practice has been so galling to our servants, I know not; but it does not appear to me, that the number of foreign servants has increased of late years; nor do I believe that one good English servant is kept out of employ by it. Perhaps the grand source of animosity may be, that foreign servants are apt to be more patient, sober, attached, industrious, and frugal, and less inclined to enter into the combinations which the others may think necessary for the advancement of the interests of their fraternity.

I confess, I have little idea that the English families have any predilection for foreigners, merely as foreigners, except in the domestic offices connected with the education of their children.

children. The English bias turns naturally quite the other way. But let the British servant be indulged. Let a tax be laid upon every foreign servant that is employed, except in a few particular situations. For it is no way unjust that an Englishman should pay for the gratification of having his dinner dressed by a Frenchman, or his ears tickled with the amusing sounds of mutilated English in a personal servant, if such happens to be his particular fancy.

Even let foreign servants be prohibited altogether, if it is thought right to prevent the admission of foreigners into our houses, and discourage the emulation they tend to excite amongst our own people. Perhaps they might be more usefully employed in the manufactures of the commoner sort, and many disputes and heart-burnings in private families be obviated. Or, they might be spared from the country totally, without any detriment, as many of them are much disaffected to our government and nation; and, if French, might be disposed, at any moment of disaster, to revive, with active mischief, the innate jealousy of that country to this, although their
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own interest and habits of obsequiousness may have caused them for a time to keep it dormant.

We find, however, from this instance, and others, which might be adduced, that servants are a large body of men, who can be brought to act together on any occasion that concerns them. We must not, therefore, forget that they are a *body*, actuated by the impulse of a common interest, which gives them more importance, than at first view might seem to belong to them; and since they have upon this and other occasions assumed some importance as a body, and are, I believe, at this moment forming clubs of the most pernicious tendency; it seems both just and expedient that their situation should be discussed. They appear to me to suffer now fewer hardships than almost any class of men in the kingdom; and, whether they are to receive additional indulgencies, or not, it is unquestionably right that regulation should go hand in hand with protection.

If the increase of wealth, and its concomitant, luxury—I do not mean increase of wealth to Country Gentlemen, for, God knows! they need

need no laws, as in times of yore, to limit their hospitality, restrain the number of their retainers, or regulate the victuals and apparel they should provide for them (*temp. Ed. 3*);— but if the vast circulating riches arising out of the public funds, the encroachment of the lower orders upon the higher, the mischievous enlargement of London, and every other town, which unavoidably depraves the public morals; the absurd extension of lettered education, and various other co-operating causes, have given birth to new relations between man and man, greater neglect of religion, more easy perpetration of fraud and vice, with an unquestionable increase of profligacy and unsteadiness of character in the lower orders of the community; then I shall have the coincidence of every virtuous and reflecting man with me in asserting, that it is the duty of the Legislature to watch those revolutions in society and manners, and firmly adapt their remedies to every existing or growing evil.

If the conduct of our menial servants does not fairly fall within any part of this picture, I wish no farther to mislead my reader, or accuse the innocent. But whilst I am ready

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to applaud, and even venerate, an old, faithful, attached, disinterested family servant; I must mark, and reprobate, the much greater number of an opposite character; lazy, faithless, and timeserving, and such as abound principally in the metropolis.

Let us first view them in their own mirror. Let us look into their own advertisements, as much diversified in claims and requisitions, as they are numerous. The tradesman sends his daughter to a boarding-school, where she gets a smattering of many things, and a knowledge of nothing:—and then Miss is inclined to undertake, for the small consideration of thirty, forty, or fifty guineas a year, to teach young ladies English and French grammatically; which means nothing more than reading the English spelling-book, and French grammar; geography, music, and the elegant accomplishments.

Young women, who are well-looking, but of less aspiring souls, learn to brandish a tortoiseshell comb, and are disposed to take the situation of lady's maid. But this class is very numerous indeed, and the garden is greatly overstocked. Some choose the town, and
some

some the country;—I suppose, when the delicacy or relaxation of their frame may incline them to take the temporary benefit of a rural situation.

Every jackanapes, at eighteen, proposes to be a gentleman's valet; or, perhaps, he condescends to be a footman, *where a boy is kept*, that he may thrash the boy, and set him to clean knives, whilst he is diverting himself in gentle dalliance with the maids, and *talking over* the master and mistress.

The poor fellow, who has not learned to read and write, perhaps, submits to be a footman; but he takes it very heavily, because he sees his village friend, Thomas, get the upperhand of him, from having been a twelve-month at the parish school.

Some of these gentlemen and ladies, who advertise for masters and mistresses, are so good as to say, that they shall not *object* to pass *a part* of the year in the country. Dear creatures! What an age of complacency and accommodation we have the good luck to have been born in!

Among them all, I observe none of them advertise for places of work. Perhaps the

human constitution is become too delicate for it; and it is therefore to be hoped, that the vast improvements in mechanics, which have hitherto been applied only to the inferior purposes of manufactures and commerce, may soon be able to produce automata, capable of performing all the domestic functions of servants.

If this great improvement could be accomplished, instead of going to Register Offices, or looking into newspapers for advertisements of servants, we should only have to take a walk in the repository of some ingenious machinist, where we should not only find the aërial cavalcade, for riding without horses, a moveable tea-table, which enables a lady to make tea without using her hands, Hygeian chairs, mechanical bats, and floating swans, and such like: but we should provide ourselves with locomotive dumb waiters, self-acting bedmakers, and every species of AUTOMATON or ANDROIDES, that might be suitable to the wants of different families.

Sed utinam hæ ineptiæ tantum nugæ fuissent!

To decide whether this picture is imaginary, or overcharged, I would only desire any one

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to enquire at the British Society for the Encouragement of Servants, or at any Register Office in town, whether they have not greater difficulty in procuring any other than *upper* servants in every line of domestic duty? Or, I would refer the question to those respectable old servants, who have gone through their various stages of servitude with credit, and who are continually loud in their exclamations against the degeneracy of the existing race of menial servants in general.

If, then, their capriciousness, discontent, exorbitancy, drunkenness, negligence, and insubordination, I fear I may add, fraudulent disposition, are become more and more the painful theme of remark and lamentation to every individual in the country, from the exalted noble, who can keep thirty or forty servants, to the antiquated spinster, who keeps but a little boy to carry her clogs, prayer-book, and umbrella, and a maid to do the work of her house:—then, I say, the consideration of this reform forces itself irresistibly upon every one, who wishes to see the beautiful fabric of civilized society held together,

by maintaining every part of the building in its natural and just position.

It would not be unworthy the attention of a King, who performs every public duty, and by his practice inculcates every moral one ; whose benevolent heart is devoted to the happiness of every class of his subjects ; who has been understood to enter with peculiar sensibility into the duty of fidelity from the servant to his employer, and to have declared he never would grant a pardon to any person convicted of robbing him, wisely considering the crime to be aggravated, where confidence is broken, by a perfidious villain, who was necessarily, in a great measure, the repository of his master's secrets and treasures.

The great and rich men of the nation, elevated by descent or election to situations where they are supposed to have power, should be impelled to it, and roused from the prevailing inappetency to useful public trouble, by interest at least : and if a suitable code of regulations were formed, I mean certainly such as should be consistent with rational freedom and equal justice, for this numerous body ; every member of the community, down to the

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the person whose happy inferiority of station is chargeable with only one tormentor, would rejoice to see a link added to the chain of domestic comfort, which is now perpetually interrupted and threatened to be destroyed, by a total want of public system in this department only.

I will not say, that a principle of sedition operates generally in the minds of our servants. Nor would I wish to throw indiscriminate censure ; because there are many virtuous, faithful, and upright characters amongst them. But I know that it does with a number of them. I believe, that they have their patriotic meetings (as I must call them) and corresponding clubs. I know every one of them would wish to *better himself*—perhaps beyond the technical phrase of servitude ; and there may be reason to apprehend, that, if the dæmons of Discord were to quit the Parisian Pandemonium, and cross the British Channel, the menial servants of this country, particularly in the metropolis, would form no inconsiderable cohort in the armies of rebellion.

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But leave untouched the question of their allegiance. Suppose it an abstract term, beyond the range of their reflections. Perhaps they are not singular in wishing to tread on the heels of those, who stand upon the steps above them. It is fair, however, to examine, what is the sort of fealty they perform towards the employers, from whose hands they have received, or are receiving, subsistence, clothing, and, most frequently, kindness and protection.

Is it not notorious, that they are all, or the greatest part of them, engaged in clubs, which meet regularly to report to one another, and keep recorded notes of the character, disposition, wages, mode of living, perquisites, degree of trouble (that is, power of laziness and fraud) in every family; to disparage every one that is regular, or, in any degree, economical; to prevent servants from offering to go into them by wicked calumnies; to form a fund, not for the relief of their brethren out of place, or suffering from sickness, which I should not blame, if innocently conducted; but to support one another in resistance to their masters
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and mistresses; and, in league with certain miscreants, who disgrace an honourable profession, by calling themselves attornies, to screen them from the wavering and wayward operation of laws; in themselves ambiguous, and support every reprobate servant, in paying fees to counsel to defend their cause; thus, by every artifice of law chicane, to harass and terrify their masters, by actions of assault and false imprisonment, even where, in the ordinary sense of words, there has been neither; and by vexatious claims about wages, allowances, liveries, terms of living, mode of warning on either side, and the various other unavoidable little informal incidents between master and servant, which it would be absolutely ridiculous, and in some cases injurious even to the latter, to try by common action of debt, trover, trespass, or detinue?

In general, the attorney takes care to have some legal informality to rest upon, which would lead a jury to give him a verdict with costs. But sometimes it happens, that he is mistaken: and then, if he finds his plea is dubious, that the master keeps his ground, declares he is determined to stand the suit,
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and retain respectable counsel to defend it; the attorney, whose only object was composition-money and extortion, finding himself foiled in his purpose, advises his worthy client to drop the business: and I was much diverted at a happy blunder of a coachman, who said, that as soon as ever these villains found the servant's money running low, they told him he would be *unsuited*.

But, it is possible an opinion may exist, that there are laws already sufficient to punish every crime, if they were properly carried into force. It may be so. But let it rest with every master or mistress of a family, even those acting upon the most upright dispositions towards their servants, to declare how they have found it? whether they have ever experienced their establishment to go on peaceably for any time together; or whether they have not frequently had occasion to cry out, in the words of Boileau,

Je pense, qu'avec eux, tout l'Enfer est chez-moi?

The master, perhaps, from various causes, may be a little more competent to redress himself, although but to an imperfect degree.

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But what is the sort of redress a mistress is ever able to obtain against embezzlement, quarrelling, swearing, domestic irregularities, insolence, drunkenness, or disobedience in any one of her servants? Are not these crimes; and crimes of serious magnitude? And are they not greatly aggravated, from being committed by those who are necessary to her situation, who form or disturb, in a very considerable portion, the happiness of her life?

Is it reasonable that such misdemeanors should be regarded as simple occurrences between A. and B.? But some of them the law does not even recognize as crimes:—that law, which professes to respect and preserve the peace of every individual. And even in cases where the law might be supposed to act this, unhappy mistress, terrified and insulted in her own house, her mind agitated and distressed, her health injured, her person or her property endangered, dares not, under this perfect system of law, even temperately commit the author of such outrages to the peaceable custody of a constable, without being liable to an action of assault and imprisonment.

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Then as to the operation of law, where it may be called forth—would it not be idle to commence an action of debt against a house-keeper for wilful waste of stores or provisions; fraudulent perquisites taken, or actual fraud committed in the payment of bills; or an action of damages against a coachman, who had wantonly, and by his own irregular proceeding, broken his master's or any other carriage; or against any stable-servant, for letting a valuable horse run away, and break his knees, whilst he is tippling at an ale-house?

If acts of such a nature, which occur perpetually in families, and it would be endless to enumerate them, were declared criminal, and made punishable by penal law, though ever so slightly, and by an expeditious process; the frequent commission of them would be prevented; heads of families would rest in secure peace and comfort; good servants would live happier, by having crimes repressed in bad ones; and the general mass of society would be benefited, because there is most happiness, where there is least vice, irregularity, and disorder.

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On the other hand, masters and mistresses are sometimes intemperate:—I will suppose what rarely happens, and say that they are dishonest, in wishing to withhold the just wages of a servant. I have heard it stated, and I believe it may be true, that servants have been obliged to remain in places they did not like, where their wages were much in arrear, rather than risk an open breach with their employer. Then I put it to the feelings of any thinking man, whether it would not be a downright burlesque upon justice, to send a poor creature, not worth forty shillings in the world, to recover a disputed, or ever so just a claim of wages, by an action in the Court of King's Bench?

We all know, how dilatory such proceedings are in their progress, dubious in their issue, and expensive in both. Is this the sort of redress the poor man, who is to gain a livelihood by his daily industry, should have against his rich superior? Or suppose the agreement be for a month's warning, or a month's wages, and the servant, from caprice, leaves his service, as often happens, a day or two after he comes into it; then the master be-

comes the complainant, and how is the penalty to be exacted? On any view of the question, therefore, I am warranted in the conclusion, that, in either case, there is no remedy for servant or master, but by the vague and circuitous process I mention; since Blackstone says expressly (*Comm. b. 1, c. 14.*) that the statutes for the regulation of wages extend to servants in husbandry only.

I may be told, perhaps by some, who, without venturing to deny the facts I have stated, will aim at ascribing them to other causes, by saying, the fault is not in the servants, and will shelter themselves under this significant proverb, that "Good masters make good servants." Were this true, I should fear the good masters would be sadly overworked; for it is notorious, that they are perpetually plagued with bad ones.

There is another pithy apophthegm in the mouths of servants, that "Bad servants make bad places." But in this maxim there is an oracular obscurity, that puts it beyond my animadversion. One construction, I have heard, is, that servants who are clamorous and quarrelsome

relsome, are often the cause of having indulgences restrained, or perquisites discovered.

We likewise frequently see, that if a lady has the good fortune to have a frugal house-keeper, who has firmness to resist the unreasonable wants of the inferior servants; they all make a common cause to harass and torment her, like rooks cawing and fluttering round a jackdaw that has strayed into their territory, till they make her situation comfortless, and then glory in having hustled a *bad servant* from her place.

On the other wise sentence, I shall only observe, that it certainly does behove every master, and every person in superior situations, to set an example of sobriety, uprightness, and decorum to his inferiors of every denomination. At the same time, servants should recollect, that the faults of a master, be they what they may, do not alter the conditions of their compact, nor in the smallest degree absolve them from the performance of any duty they undertake, when they enter upon their service. Tradesmen, likewise, are grown more dissipated than they were fifty years ago: but the subordination and discipline of their apprentices

prentices remain the same, because they are happily fixed by the laws.

Now, if the laws upon this other subject likewise were such as they ought to be, they would neither permit the master to be unjust, nor the servant licentious. Evil example in the former is certainly pernicious in a general point of view. But it is perfectly fair to argue, that even the dissipated habits of a master render strict fidelity and carefulness in his servants the more indispensable: because the master, who knows he is likely to be a great deal from home, relies so much the more upon his servant, to guard his house and property, when he is absent; and the servant enters into his engagement voluntarily. His negligence, therefore, and desertion of his trust, in imitating the bad example of even his immediate superior, instead of being extenuated, becomes doubly criminal.

In every attempt to establish a more easy, prompt, and satisfactory distribution of justice between master and servant, it appears to me, that simplification of process is highly expedient. Than the present, nothing can be more tedious, complex, or precarious. For when
cases

cases of the sort I have described have been pushed to a regular trial in the Court of King's Bench, the verdict has seldom gone upon the true, substantive merits of the question; the real points in dispute have not been brought forward, but in the pleadings of counsel; and the decision has generally turned upon some defect of legal form; or the object of a just prosecution has been lost from an unsuspecting confidence, in neglecting to take written documents (which, indeed, it would be almost impossible to do in the frequency of those domestic transactions) and the necessary failure of legal evidence to supply the place of them.

Have matters taken a better course in cases brought before the subordinate tribunals?—I confess, as far as my observation goes, magistrates, except in the metropolis, seem afraid to interfere in the concerns of private families, unless in instances of robbery. Nor can they move without the solemnity of information upon oath, depositions in writing, &c. which is too much for trifling cases, and too slow for great ones. At last, when family disputes are carried before the tribunal of a Quarter Sessions, they are usually decided by
a jury

a jury of tradesmen, who frequently have, and from obvious motives are many of them likely to have, a feeling with servants : and the Court itself, although composed of persons not presumed to be versed in law, is led by the artificial pleadings of the counsel, to adopt the scrupulous forms of the higher Courts, without their vigour.

The fault, however, is not in the magistrates. It is in the incompetency of our present laws to embrace the various objects of grievance ; which, though trifling in the eye of government, as isolated facts, are yet highly important to the individuals they affect ; and, collectively, important to the national police and morals.

It is a wonderful thing, but I believe my observation is just, that our stupendous pile of statutes does not contain one article of regulation for servants, as servants, except some antiquated statutes before the reformation, which are inapplicable to the present state of society. Many have been deceived, in imagining from the title in various law books, that the wise provisions made for *servants* in the reign of Queen Elizabeth, would apply to our

our present domestic attendants. But, in truth, they regard servants in husbandry only. It might be matter for consideration, how far it would be convenient and effectual to apply the whole of that excellent statute, and that of 20 *Geo.* II. to our menial servants. But I am confident, that some parliamentary regulation is indispensibly requisite.

I have heard it objected, that the extension of those statutes (or something similar) to menial servants, would give to gentlemen in the country, acting in the commission of the peace, and many of them, perhaps, persons of inferior consequence, a power of making themselves troublesome in the family concerns of their neighbours. I am willing to give this argument all the weight it can claim. But, placed in competition with the benefits to be obtained, I think a feather would turn the scale. For, even if the measure was to be defended by general principles alone, it would be sufficient to rest its expediency upon this unquestionable axiom, that an easy access to the justice of the laws is advantageous to every good subject of higher or lower degree. This I conceive to be the true, legitimate,
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and consistent equality, which ought to be maintained, and which holds the links of society together. Whether the instrument of that justice be the possessor of one hundred, or of five thousand pounds a year, seems to me of little consequence. The man, who bears the wand of justice, in any part of the scale, ought to be respected and supported, if he acts honourably and right. If he exercises any power he may be invested with, wantonly, carelessly, or maliciously, he acts at his own peril, and ought to incur the penalty.

I contend, however, that it would erect no new power to the degradation of the higher classes. For at this moment the Duchess's footman, when he is swaggering down St. James's Street before his lady's chair, with his cane, bag, powdered head, and nosegay at his breast, may be dragged away by the warrant of a single justice for a bastard child sworn against him, for any criminal act laid to his charge, or for any debt, upon which a writ has issued. So is the Duke equally liable with his taylor to be taken up and committed by a single magistrate, for any breach

breach of the peace, charged against him—
and Heaven forbid it should be otherwise!

But granting even, that there is any foundation for the objection suggested; a reference to the history of the period, when that famous statute was framed (5 *Eliz.*) will not only furnish a sufficient answer, by proving, that such a power would be rather a revival, than a novelty: but will also, in another view of it, evince the necessity for establishing some more coercive system of police for our domestic servants.

It is well known, that about the beginning of Queen Elizabeth's reign, London scarcely extended beyond Temple Bar; and Westminster, separated from it by a dirty road called, as it still is, the Strand, was a scattered village. All the elegant squares and streets that now lie north and north-east of that line, were unbuilt. Few of the great lords, and wealthy country gentlemen, ever had any settled residence in the capital, except such as were immediately connected with the court. They lived altogether upon their estates; of which they all kept under their own management at least as much as would supply the

consumption of their numerous families, in wheat, oats, barley, hay, cyder, &c. For this they employed a large number of servants in husbandry, many of whom were lodged within their spacious mansions; and their employers must then have been subjected to the absolute authority and interference of justices, in all disputes relative to hiring, wages, time of work, &c. which this statute of Elizabeth had placed under their cognizance.

The other inference I would draw from this retrospect is, that, considering the prodigious increase of houses on all sides of London, occupied mostly by persons keeping from two to twenty or thirty menial servants; the constant resort of such persons to all places of public entertainment, which are now contrived on a scale of magnitude to receive ten times the number they did in former times; the invention, and astonishing daily augmentation, of coaches, chariots, chairs, and other vehicles, all attended by servants; the ostentatious style of assemblies and balls given by ladies of fashion, by which some hundred footmen, coachmen, and chairmen, are brought together in one street, and during the night-

time:

time : I say, when these circumstances are considered, every one must, at the first glance, perceive it is absolutely impossible that disputes, riots, outrages, and destruction of carriages, should not perpetually happen, as they actually do, to the disgrace of our police, unless the peaceable demeanor of servants of every denomination were enforced by adequate regulations. The same argument will apply, in a greater or less degree, to every considerable town in the kingdom.

If any one should imagine, there would be a partial severity in laying our servants under legal regulations, he will allow me to ask, why they should be exempt more than chairmen, hackney coachmen, &c. ? I will push the question farther,—Why is every distinct class of men, why are manufacturers, and journeymen, and different branches of trade, continually laid under specific rules, or bye-laws, to be enforced by the magistrate, and combinations to encrease their wages severely punished ; whilst servants, who are the most headstrong of all, are left exempt from control ?

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In other cases, our Parliaments, for these last sixty years, and particularly during the present reign, have not been at all squeamish, in forming new laws and systems adapted to the existing state of things; nor in modelling, altering, or amending them, till they had reached their appropriate object of reform. It is to be hoped, they will ere long see the urgent expediency of turning their vigorous attention to this subject also: which, the more closely it is viewed, the more consequential it will appear.

Many difficult disputes arise as to the conditions of hiring and parting between master and servant. Now the doctrine generally laid down, and repeated in all the law-books, is, that if the hiring be general, without any particular time limited, the law construes it to be a hiring for a year: and that neither party can quit the other without a quarter's warning. Blackstone certainly seems to hold that construction (*B. 1, c. 14*). Nevertheless, I cannot conceive, that it is so understood in practice, or that the courts of law have acted upon it. If it were, servants would not dare to leave their places abruptly, as they continually

nally do, from arrant malice, pique, or caprice, or with a view of some other situation where they can get a guinea a year more, to the utter distress and inconvenience of their master or mistress.

When I said, some pages back, that our statute-books did not contain one regulation for menial servants; I had not forgot the law passed in 32 Geo. III. to prevent counterfeit characters. But I thought it so frivolous a law, that it did not deserve to be made an exception. It is a mere fungus growing upon a wholesome tree. The only good I ever saw in that statute, was, that it sanctioned the word *character*, a technical term well understood in families, but heretofore unknown in law: and it seemed to establish, in an oblique way, the legality of giving true and faithful characters, without hazard or responsibility.

Daily experience shews us, that servants by the word *character* mean only such a testimonial of conduct and capacity to be given by their late employer, as shall be deemed unobjectionable by the person making the enquiry. If it happens to fall short of that expectation, they roundly accuse him of *taking*
away

away their character, or taking their bread from them. Now *characters* ought certainly, if they mean any thing at all, to convey a just, candid, and ingenuous account of any servant's behaviour and qualifications in the place he last left; not unnecessarily bringing defects into view, but rather inclining to the favourable side; except only with respect to the grand articles of honesty and sobriety, in which even palliation is criminal, and ought to be made responsible for any consequences that may ensue from so mischievous a deception.

Such is the rational view of the practice of referring to that criterion. Such seems to be the construction of it in the statute of 32 Geo. III. for the prevention of counterfeit characters. And so far it ought to be inculcated, and defended, not by the precarious opinion which may be gained from a jury upon some minute and disputable question, when perhaps the passions of many of them may lead to prepossession; but by the positive and clear institutions of written law.

I am the more urged to press the expediency of such a law, by an instance which has come to my knowledge, of a lady, who
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was resolutely called upon by an Abigail, to deliver up the original letter from her late mistress, as a ground of action against her; was insulted in person, and by an impudent correspondence; and was herself also threatened with a legal prosecution, for not engaging this spirited heroine; which the lady had declined doing, because the character, given by the former mistress, was dissatisfactory; and doubts, which had arisen upon the maid's veracity and conduct, had not been cleared up.

There is no point of view, in which the imperfection of the present system will not be apparent, and give us cause to lament, that more was not done to reform it, when it was once brought under the cognizance of Parliament. However, let us hope, that, although the statute we are discussing is frivolous and inefficient, it may hereafter lead to others, and that an useful edifice may be raised upon a foundation of rubbish.

But even this statute of 32 *Geo.* III. limited and inefficient as it is, was not obtained without much trouble and difficulty. The first year, it was lost in the House of Peers, by the single objection of a great learned Lord, to the mode, or amount, of the penalty. The

next session, no active and respectable member could be induced to bring the business forward in the House of Commons; and it was thrown upon Mr. Fox, as member for Westminster. But he only laid the bantling at the door of the legislature, without professing himself its protector or friend; and thus it slumbered quietly through its parliamentary stages.

Some have considered the high wages of servants, as the cause of their bad conduct; and have supposed, that a fixed table of wages would furnish an adequate corrective. Upon this point therefore, I feel inclined to offer a few observations, as to the principle and applicability of such a measure.

That they are both evils, and evils of magnitude too, is beyond question: but, that they arise out of one another, is a position that does not immediately strike my mind. They are likewise grown together, and seem to keep even pace: but coincidence of action is a different thing from cause and effect. Servants, it is true, may be kept humble by being kept poor; but the poor man is not necessarily honest, and above temptation. Nor does service ill-requited, generally tend to promote fidelity.

In a general point of view, I confess I am
not

not fond of restraining the competition, or limiting the just claims, of superior merits, talents, and industry, in a free country. The new French Government attempted to make this plan universal, by fixing a *maximum* price upon all commodities: that is, in plain English, to prevent the owner of any commodity, or possessor of any art, or faculty, from putting his own price upon the exertion of it. Their new-fangled system, covered by a preposterous jargon, was contrived to obliterate all the perceptions of right and wrong; and, under the alluring, but deceptive, term of freedom and equality, to sanction the most fantastic and boundless exercise of tyrannic power, over person, property, and opinion.

My mind, therefore, recoils, to a certain degree, from every thing that bears a resemblance to the act of a council of dæmons, governing a nation of madmen, knaves, and atheists. But I may be told, that there is too much of refinement in this comparison,—that, in the case of servants, the rule might be salutary;—that military men of every rank, having once taken their election of employ, cannot make specific conditions of service, but must abide by the established allow-

ances ;—that, with regard to servants in husbandry, workmen in trades, manufactories, mines, &c. tables of wages have long been adopted in this and other countries, without any mischief arising from the practice; and that experience should supersede theory.

It is certainly true, that wages of menial servants have, of late years, risen extravagantly, and are perceptibly on the rise at the present juncture. I think there has been no reasonable cause for it; because the articles of a servant's wants, when in place, have not considerably advanced in price; whilst to the master, who is to lodge, feed, and clothe them, a thousand circumstances augment the expence.

However, I have endeavoured to estimate, in a general way, the fair and reasonable outgoings of a livery-servant in London; as they are expected there to attend to their dress and appearance, more than in country places, where low wages still continue: and I flatter myself, I have done it liberally. Such a sketch, without being offered on the idea of a standard to be fixed by authority, may become useful as matter of consideration for masters and mistresses in forming a judgment upon the matter, when extravagant wages are demanded of them.

ESTIMATE

ESTIMATE of the necessary expence of a livery servant for one year, supposing him to go into his place tolerably equipped, and, as I before said, taken upon a London scale.

	£.	s.	d.
Two shirts every year, at 9s.	0	18	0
Two neckcloths ditto, at 3s.	0	6	0
Three pair of stockings ditto, at 3s.	0	9	0
Four pair of shoes ditto, at 7s. 6d.	1	10	0
Leather, or other morning breeches,			
taken on an average for a year	1	5	0
Boots ditto, ditto	1	5	0

N.B. If a stable-servant's expence may exceed in the two last articles, it will fall short in others to as great a proportion, or even more.

Hair-powder, in ordinary times, at 1s. 6d. per month - -	0	18	0
Buckles, ribbon, night-caps, nets, gloves, and other contingencies, on an average for a year - -	1	1	0
Washing, at 1s. 6d. per week	3	18	0
Total estimated expence for a year	10	10	0

To servants out of livery, about ten guineas more must be allowed for the consideration of dress. A servant's livery seldom costs a master

master so little. As to maid-servants, cooks excepted, whose pretensions are generally much beyond their merits, I apprehend their ordinary rate of wages is not unreasonable.

I do not mention tea and sugar, because I do not consider them as necessary outgoings, but luxuries. But where these articles are used, and admitted, it follows that an additional allowance must be made.

To this, or any other estimate that might be more accurately formed, I would add a full third, or perhaps one-half more, to enable servants to lay by something against sickness, or want of employ. For every wise master would surely wish to put his servant above the temptation to cheat and steal. It is right also to support them in cleanliness and comfort. But it is totally unnecessary to feed their growing profligacy and extravagance.

If ever there were to be a rate of wages sanctioned by the Legislature, or any authority empowered by Law to fix it; that ought not, I presume, to hinder young men, or servants of inferior capacities or personal pretensions, from agreeing to serve on lower wages. Neither should it preclude masters from giving gratuities, at their discretion, to
servants

servants who have behaved well, provided they be spontaneous, and not matter of positive condition.

Possibly the establishment of a fixed rate of wages, and that a moderate one, might prove beneficial in another point of view, unconnected with the subject itself, by withholding from our young men, the temptation they now have to quit the useful occupations of agriculture and manufactures, for the more easy labour of domestic servitude.

Now, as to carrying into effect any species of reform and regulation, that may be judged expedient :—my opinion is, most decidedly, that, whoever may form the outlines of the system, or help afterwards in the discussion of its detail; the Attorney-General ought to be its principal conductor in the House of Commons. Every irregularity in the manners of the community, every misdemeanour, every public nuisance, every vicious or illegal practice, that disturbs the peace and good order of society, falls naturally under his observation and correction. The notoriety of any case is sufficient for him to proceed upon : whereas, if it is taken up by an individual member, he would be obliged to enter into proofs

proofs or documents in his speech, or must move to bring them before a Committee ; either of which would be embarrassing, and, perhaps, eventually fruitless. On the other hand, the Attorney-General would act with official dignity and weight, so as to preclude any imputation of personal bias, passion, or injustice.

However, the public attention is now called forth by the patriotic attempt of Mr. Coke, the respectable member for Nottingham, who has introduced the Bill. And as I presume to think, that these observations may not be unworthy the notice of many members of the legislature : I would beg of them to peruse with attention, as introductory to their general consideration of the subject ;

1st, The statute of 5 *Eliz. c. 4*, containing the system of regulations then established for servants employed in husbandry, and in various trades there enumerated.

2dly, The statute of 1 *James I. c. 6*, which is founded upon that of 5 *Eliz.* as far as regards the power temporarily vested in the justices to assess the wages of workmen ; and afterwards continued indefinitely by 3 and 16 *Charles I.* This act even goes so far as
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to declare in the 5th section, that the justices of session " shall have power to rate *all manner* of wages;" which, however, has never been construed to apply to menial servants. And,

3dly, The statute of 20 Geo. II. c. 10, which gives authority to *one* justice to hear and determine all complaints and disputes between masters and mistresses, and servants in husbandry, or artificers; in cases where no rate of wages has been made; to examine the parties upon oath; and to make such order for payment of so much wages as he may think just, not exceeding the sum of 10l. to any servant, or 5l. to any handicraftsman; and to levy the same by distress and sale.

The second section of this last-mentioned act also authorizes the magistrate to entertain the complaint made upon oath by any master or mistress, against any servant " concerning any ill behaviour," and to punish the offender by commitment to the house of correction, or by abating some part of his wages; or, in like manner, to receive the complaint upon oath of any servant, &c. on account of " any misusage, refusal of necessary provision, cruelty, or ill-treatment:" with general power of appeal from the determination of the justice

to the next general quarter-sessions of the peace.

This statute seems to have been so little productive of oppression or inconvenience after ten years of trial, that it was confirmed and enlarged by a subsequent act, passed in the 31 *Geo. II. c. ii.*

When we consider, that this jurisdiction must necessarily operate upon some of the first and wealthiest men in the kingdom, who either enter into the very laudable and patriotic pursuits of agriculture, planting, and breeding; or the great manufacturers, whose knowledge, ingenuity, and spirit of enterprize, increase the riches and glory of the country: it is really difficult to find out, where is the rational line of discrimination, that should exclude their domestic character, and that of the servants they employ, from a similar control, under any modifications that may be judged convenient and salutary.

I presume not to attempt any thing like a plan. I have endeavoured to point out some evils arising from the present want of system, as they have struck my observation; and, if their existence be once admitted, the remedy never can be difficult. I will, however, throw
out

The master to write the indorsement as close as possible, and to be liable to pay the servant, as part of wages, two shillings, if he exceeds an inch, and so in proportion.

A new certificate to be given to the servant, at any time, for the same fee of one shilling, but with the original running number.

This regulation to extend round London and Westminster, within the circuit of the penny post, and within five miles of great country towns: the names to be entered alphabetically, and the register, of which counterpart copies might be kept in different places, to be open to the inspection of any person, for a shilling fee.

There might be a little trouble in the commencement of this regulation; but it would be easily removed by a certain method in collecting the names, and arranging them alphabetically, with running numbers; and as to the descriptions of person, nobody will think much of that, who has seen the facility, and exactitude with which it was, and is now, practised in the frontier towns of France.

If I am not mistaken, numberless advantages would attend this plan. It would be tedious to enter into a minute discussion of them. One
very

very obvious one is, that it would render it impossible for any man to personate another servant, either with written or verbal characters: and it would preclude the necessity, which every master has occasionally experienced, of identifying the man, whose character he goes to ask, or probably is compelled to enquire by letter. The indorsement would oblige every servant to account for the time he is out of place, which is always considered as ground of disapprobation: and it would convey an honourable testimony for good servants, who are not fond of sauntering in idleness when they quit a family, or who usually keep their places long.

I conceive that such a register might be useful in a political view also, by enabling government to calculate the number of able-bodied men, following one particular occupation in London, and the principal towns of the kingdom.

I would propose, that all clubs of servants, in or out of place, consisting of more than seven, be declared illegal, except in conformity to the rules of the Friendly Society Act; and, that publicans permitting any other to be held at their houses, should be punishable.

able. I am sure such clubs are unnecessary, that they can lead to no good, and are, most of all, pernicious to the servants themselves.

Concerning the mode of hiring, which is a perpetual ground of dispute, both as to the departure of a servant from his place, and in the adjustment of his wages: my idea is, that it matters little, what it may be; provided only, there may be some speedy mode of enforcing the agreement when there is one, either for a term absolute, or for payment of the stipulated forfeiture, if it is broken by the act of either party: or else, that the construction of the law be clearly known in cases, where there is no specific agreement. It is principally necessary to pronounce, what the law intends; since certainty of laws is the surest prevention of disputes, as well as crimes, and ambiguity the unavoidable source of both.

The same reasoning applies to the subject of liveries, in which the servant ought, doubtless, to have no claim of property, unless from gift, or previous condition. On this article I find the law laid down in a compilation, published by the king's law printers, in 1767, under the title of "Laws concerning Masters and Servants;" which, if authentic, would leave no room for question. The passage is as follows:

" When

“ When servants leave their places, the property of their livery frequently begets very disagreeable disputes, from the mistaken opinion, that a servant's having worn his livery a year, intitles him to it. Indeed it is the custom of most families to give their servants the old livery, when they stay long enough to have new ; but this is the master's pleasure, not the servant's right, unless the servant make it part of his agreement, when he hires himself. A servant carrying away his livery, without consent of his master or mistress, is liable to an action : and, if he pawn, sell, or unlawfully dispose of any part of the same, he subjects himself to be taken up by a warrant, to be carried before a justice of peace, to pay a penalty of 20s. or to be committed to Bridewell for fourteen days, and to be publicly whipped.”

I cannot, however, find any statute, upon which this opinion is founded. But supposing it to be law, and admitting, what no man in his senses can doubt, that the livery is completely the master's property ; I would ask, where is the consistency of holding a servant liable to be taken up, fined, and committed to the house of correction, for pawning his livery ; and not, for forcibly carrying away, wearing,

wearing, abusing, and destroying, that property? I happened once to be in a country town, when a cause of this sort was tried before the quarter-sessions, at which a serjeant at law presided. The servant appeared in court in his former master's livery, long after he was discharged, and the idea of compelling him to deliver it up, by any penal course of proceeding, was treated with ridicule.

Reverting now to my observations in page 25, &c. I am persuaded there is no sound objection to the plea of rendering all disputes about wages, hiring, and liveries, cognizable by the magistrates: one justice to have the power of summoning the parties, or their agents, to appear; two, or perhaps three, to decide summarily, as high as 5*l.* or even 10*l.*; beyond that an appeal to lie to the quarter-sessions, whose decision should be final, as far as 20*l.*; and above that, a new trial to be allowed in the courts of Westminster-hall. If these limitations should be thought too low, I would willingly agree to advance them. For too great a facility of appeal is a fallacy in jurisprudence; and a few questionable decisions are preferable to a multiplicity of litigation.

In giving the power of interference to the
magistrates

Magistrates, I have certainly favoured the servant most, by securing to him an immediate remedy against an arbitrary, unjust, or capricious master, without exposing him to the ruinous expence of a civil action. What I am now going to suggest is to guard the master against the misconduct or violence of bad servants :—for the good ones it cannot touch.

I would propose to declare, that drunkenness in the house, or upon duty, insolence to the master or mistress, positive disobedience of any lawful order, wilful or malicious injury of their house or property, are misdemeanors cognizable by the magistrate : and that it shall be lawful for the master or mistress to commit any servant so offending into the custody of a constable or other peace-officer (which cannot now be done with safety) provided they appear to prosecute the accusation, within the space of eighteen hours. I do not mean, however, to debar the servant of his remedy, as he now has it, by an action of damages for false imprisonment against any master or mistress, who should exercise this discretion wantonly, capriciously, or in any respect unjustly.

A reference to some law-books of high respectability would lead one to imagine that the master of a family is already invested with

very considerable power over his servants. The following extract is from Bacon's Abridgment, folio, vol. iii. p. 560.

" It is clearly agreed, that a master may correct and punish his servant in a reasonable manner, for abusive language, neglect of duty, &c. and that in an action of assault and battery brought against him, he may justify, that he was his servant, gave provoking language, &c. and that therefore *moderatè castigavit*: and on issue of *immoderatè castigavit*, if it appears in evidence, that the punishment was such as is usual from masters to their servants, the master will be acquitted."

This infinitely exceeds the power I propose to vest in the master. But, high as the authority may be, I do not apprehend it would be very safe for any master to act under it. It conveys, however, an additional proof of the uncertainty of the law, and a powerful argument for its revival.

In order to prevent quarrels and disturbances amongst servants, in places where there is a great concourse of people, and the destruction of carriages by the intemperance of coachmen; it is absolutely necessary, that there should exist somewhere a power to regulate the behaviour of attendants of every description, within two miles

miles of London. I mention that boundary, in order to take in Vauxhall, Ranelagh, and Kensington-gardens: and I know not where it can better be lodged, than in the quarter-fessions. I am confident that if daring coachmen were restrained by the fear of punishment from breaking their ranks; every body would feel the benefit, not only in the better preservation of their horses and carriages, but in the greater facility of their departure from public places, which would be cleared much earlier than they now are.

There is nobody, who passes any part of the year in London, but must have seen and experienced the inconveniences I describe, the broils that arise, and the wanton mischief committed, wherever there is a large assemblage of carriages and servants. It is, moreover, a scandalous imputation upon the police of our metropolis, that ladies, who have great assemblies, are driven to the necessity of engaging constables to attend at their doors: and that the corners of our streets should have dragoons planted at them, to which our eyes have latterly become unfortunately so familiar, that we acquiesce in the convenience, without pausing to reflect upon the mischief, which attends it in a constitutional point of view.

I have

I have carried my remarks much farther than I intended. But the subject has swelled into importance, the more I examined it: and this importance I wish to impress upon the minds of others. Regulation is my object, and not severity. For masters may be supported, without having servants oppressed: and far be it from me, to bear hard upon those, whom religion commands me, whom interest, inclination, and convenience would naturally prompt me, to protect and cherish. No society can exist without them, either civilized, or savage. But the more civilized and free the country may be, the more requisite it becomes, that their situation should be settled by the laws. If honest, steady, and conformable, and kept within proper bounds of duty; they contribute more to our tranquil passage through life, than many external circumstances, of apparently greater moment. If not, they become miserable in themselves, and a scourge to those who employ them: whilst their example carries contagion to the various classes they associate with, and to their own uncorrupted families, in their temporary absence, or final retirement, from service.

